

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-14-04.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 9-11-03.

Many services were denied by the carrier for both “R – extent of injury” and “U – Unnecessary medical treatment.” A representative of the respondent stated on 6-15-05 that the respondent was no longer disputing the extent issues.

The IRO reviewed office visits, therapeutic exercises, electrical stimulation, DME, kinetics, ROM and muscle testing that were denied by the insurance carrier for medical necessity.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, therapeutic exercises, electrical stimulation, DME, kinetics, ROM and muscle testing from 9-17-03 through 4-8-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved.

On 1-14-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor’s receipt of the Notice.

CPT code 99080-73 on 9-17-03, 12-2-03, 1-9-04, 2-10-04 and 4-8-04 were denied by the carrier with a “U for unnecessary medical treatment”, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requestor submitted relevant information to support delivery of service. **Recommend reimbursement of \$75.00.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$75.00 from 9-17-03 through 4-8-04 outlined above as follows: In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per

Commission Rule 134.202 (c); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Decision and Order is hereby issued this 15th day of June 2005.

Medical Dispute Resolution Officer
Medical Review Division
Enclosure: IRO Decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity
IRO Decision Notification Letter**

Date: 12/21/2004
Injured Employee:
MDR #: M5-05-0197-01
TWCC #:
MCMC Certification #: 5294

Requested Services:

Please review the item in dispute regarding office visits, therapeutic exercises, electric stimulation, DME, kinetics, ROM, and muscle testing. Note: The referral forms and documentation indicate that the disputed dates of service are from 09/01/2003 through 04/08/2004.

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 10/06/2004 concerning the medical necessity of the above referenced requested services hereby find the following:

The medical necessity of the services and entities listed in the reason for referral is not established upon review of the documentation.

Records indicate that the injured individual participated in several weeks of post surgical rehabilitation after her second surgery. She participated in three weeks of rehabilitation before presenting to the office of the current attending chiropractor. On 03/20/2002, a physical performance test indicated that the injured individual exhibited decreased ranges of motion, decreased strength, deconditioning and mildly decreased functional capacity. A serial examination dated 05/14/2002 indicated that the injured individual had progressed significantly and was apparently performing within her required physical demand category. A third surgery was performed on 08/29/2003 to the left knee as lingering symptomatology was reported. A cursory examination was performed on 09/11/2003, however contained no significant objective testing to develop a baseline of objective data from which to later compare with subsequent examinations. Given the fact that the injured individual underwent a third surgery on 08/29/2003, the injured

individual was a likely appropriate candidate for additional rehabilitation. However, without a full functional capacity examination (FCE) or PPE or other significant objective exam, the rationale for additional rehabilitation, inclusive of the litany of services captioned above, is not established especially given the fact that the injured individual was apparently performing near or at her required physical demand level (PDL) on 05/14/2002.

Furthermore, the 09/11/2003 exam identifies potential psychosocial overlay that should have been addressed. It is not apparent from a review of the documentation that any further consideration was made for the possible psychosocial issues. These issues would certainly threaten the success of the course of active rehabilitation prescribed by the attending provider.

As opined above, even though the injured individual was likely an appropriate candidate for an additional course of post surgical rehabilitation, absent the initial objective examination and associated baseline of data, the medical necessity for the list of services captioned above from 09/01/2003 and forward is not established.

Records indicate that the above captioned individual, a 27-year-old female, was involved in an occupational incident on _____. The history reveals that she was bending down to place a tray in a container, felt a pop in her left knee, immediately had pain and fell to the floor. The injured individual was initially treated allopathically by her primary care physician who referred her for consultative purposes. An arthroscopic surgery was performed to the left knee on 09/03/1998 and a second surgery on 01/22/2002. Three weeks of post surgical rehab were completed from 02/27/2002 through 03/14/2002. The injured individual presented to the office of the current chiropractic provider on 03/20/2002 with pain in the left knee of 7/10 severity. A third surgery was performed on 08/29/2003. Additional participation in the rehabilitative program is documented. A cursory examination dated 09/11/2003 indicates that the injured individual was exhibiting signs of psychosocial issues overlaying her condition.

This is based on:

*IRO Notification Letter: 10/22/2004

*IRO Acknowledgement and Invoice Notification Letter: 10/06/2004

*Notification of IRO Assignment: 10/06/2004

*Texas Workers Compensation Commission (TWCC) request for Medical Dispute Resolution (MDR): 09/14/2004

*Table of Disputed Services (01/23/2003 to 04/08/2004)

*Explanation of Benefits (EOB) service dates include: 09-11-2003 to 09/17/2003, 10/01/2003 to 10/09/2003, 10/20/2003, 10/29/2003, 11/05/2003 to 11/07/2003, 11/14/2003 to 04/08/2004, 11/14/2003 to 04/08/2004, 11/14/2003 to 04/08/2004, 01/07/2004 to 01/09/2004, 12/02/2003 to 12/04/2003, 02/10/2004 to 02/10/2004, 12/16/2003 to 12/18/2003

*Memo summary of providers position from Rusty Chandler to MCMC: 10/18/2004

*Request for Medical Dispute Resolution form: 09/14/2004

*Initial Medical Narrative report completed by Sam Liscum, D.C.: 03/20/3002

*TWCC work status report signed by injured individual and Dr. Liscum: 03/20/2002, 04/17/2002

*TWCC employee's request to change treating doctors form: 03/25/2002

*Left knee range of motion assessment report completed by Dr. Liscum: 03/20/2002

*Subsequent Medical Narrative Report completed by David Bailey, D.C.: 05/14/2002

*TWCC work status report signed by injured individual and Dr. Bailey: 05/14/2002, 07/11/2002, 12/17/2002, 01/23/2003,

*Left knee range of motion assessment report completed by Dr. Bailey: 05/14/2002

*Subsequent Medical Narrative Report completed by John Wyatt, D.C.: 09/11/2003, 11/25/2003, 01/07/2004

*TWCC work status report signed by injured individual and Dr. Wyatt: 09/17/2003, 12/02/2003, 01/09/2004, 02/10/2004, 04/08/2004

*Left knee range of motion assessment report completed by Dr. Wyatt: 11/25/2003, 01/07/2004

*Patient Office visit reports completed by Dr. Liscum: 03/20/2004, 03/21/2002, 03/25/2002, 03/27/2002, 04/01/2002, 04/03/2002, 04/05/2002, 04/08/2002, 04/10/2002, 04/12/2002, 04/15/2002, 04/17/2002, 04/19/2002, 04/24/2002, 04/25/2002,

*Patient Office visit reports completed by Dr. Bailey: 04/29/2002, 05/01/2002, 05/03/2002, 05/14/2002, 05/15/2002, 05/20/2002, 05/23/2002, 05/24/2002, 05/29/2002, 05/31/2002, 06/03/2002, 06/05/2002, 06/06/2002, 06/07/2002, 06/10/2002, 07/11/2002, 09/26/2002, 10/31/2002, 11/19/2002, 12/17/2002, 01/14/2003, 01/23/2003, 02/06/2003,

*Patient Office visit reports completed by Dr. Wyatt: 04/01/2003, 09/11/2003, 09/15/2003, 09/17/2003, 09/19/2003, 09/22/2003, 09/30/2003, 10/09/2003, 10/13/2003, 10/20/2003, 10/22/2003, 10/28/2003, 10/30/2003, 10/31/2003, 11/05/2003, 11/07/2003, 11/14/2003, 11/17/2003, 11/18/2003, 11/19/2003, 11/21/2002, 11/25/2003, 12/02/2003, 12/04/2003, 12/05/2003, 12/08/2003, 12/12/2003, 12/26/2003, 12/17/2003, 12/18/2003, 12/19/2003, 12/22/2003, 12/29/2003, 01/07/2004, 01/09/2004, 02/10/2004, 04/08/2004

*Therapeutic Procedures chart: 03/25/2002, 03/27/2002, 04/01/2002, 04/05/2002, 04/08/2002, 04/12/2002, 04/15/2002, 04/17/2002, 04/19/2002, 04/24/2002, 04/29/2002, 05/01/2002, 05/03/2002, 05/29/2002, 05/31/2002, 09/17/2003, 10/20/2003, 10/29/2003, 11/04/2003, 11/05/2003, 11/07/2003, 11/18/2003, 11/21/2003, 12/04/2003, 12/16/2003, 12/18/2003,

*Treatment Plan: 09/17/2003, 09/18/2003, 12/04/2003

*Muscle Strength Testing: 12/02/2003

*Critical Job Demand testing: 12/02/2003

*Progress Note completed by Rick Seabolt, M.D.: 02/17/2004

*Letter from Dr. Wyatt to Dr. Seabolt: 10/08/2003

*Operative Report: 08/29/2003

*Decision and Order Docket No. 453-03-1634.M2: 04/24/2003

*Radiology Report: 01/20/2003, 01/28/2003

*Letter from Dr. Seabolt to Dr. Wyatt: 06/10/2002

*Progress note completed by Dr. Seabolt: 06/10/2002

*TWCC-69 Report of medical evaluation completed by Edurado Elizondo, M.D.: 05/02/2002, 07/01/2002

*Lower Extremity Impairment Form completed by Dr. Elizondo: 06/18/2002

*Letter from Dr. Elizondo to TWCC: 06/18/2002

- *TWCC Re-authorization and notification: 06/12/2002, 06/18/2002, 06/24/2002,
- *Independent Review completed by Gilbert Prud'homme: 11/18/2002
- *TWCC work status report completed by Dr. Elizondo: 05/02/2002
- *Designated Doctor examination completed by Dr. Elizondo: 05/02/2002
- *Initial Assessment/Physical Examination completed by Doris Cowley, M.D.: 04/02/2002

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5).

In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this

22nd day of December 2004.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____